

**IN THE UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

IN RE:

WESTMOUNT GROUP, INC.,

Debtor.

§
§
§
§
§

Case No. 21-30633-HCM

**FIRST AND FINAL APPLICATION FOR COMPENSATION AND REIMBURSEMENT
OF EXPENSES OF BRAD W. ODELL AS SUBCHAPTER V TRUSTEE**

THIS PLEADING REQUESTS RELIEF THAT MAY BE ADVERSE TO YOUR INTERESTS.

IF NO TIMELY RESPONSE IS FILED WITHIN TWENTY-ONE (21) DAYS FROM THE DATE OF SERVICE, THE RELIEF REQUESTED HEREIN MAY BE GRANTED WITHOUT A HEARING BEING HELD.

A TIMELY FILED RESPONSE IS NECESSARY FOR A HEARING TO BE HELD.

TO THE HONORABLE H. CHRISTOPHER MOTT, UNITED STATES BANKRUPTCY JUDGE:

NOW COMES, Brad W. Odell, the Subchapter V Trustee (“Trustee”) in the above captioned prior to its conversion to Chapter 7, bankruptcy case (the “Case”) and files this First and Final Application for Compensation and Reimbursement of Expenses of Brad W. Odell as Subchapter V Trustee (the “Application”), pursuant to section 326 and 330 of title 11 of the United States Code (as amended, the "Bankruptcy Code"), Rule 2014 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), and Rule 2014 of the Local Rules of the United States Bankruptcy Court for the Western District of Texas (the “Bankruptcy Local Rules”), seeking allowance on a final basis of all the fees and expenses incurred by applicant from August 26, 2021 through October 27, 2021 (the “Compensation Period”), in the amount of total amount of \$3,429.05 (\$3,422.00 for fees and \$7.05 for expenses).

A. Background and Jurisdiction

1. Westmount Group, Inc. (the “Debtor”) filed its voluntary petition for relief under Chapter 11 of the Bankruptcy Code on August 23, 2021, in the United States Bankruptcy Court for the Western District of Texas, El Paso Division. The Debtor elected to proceed under Subchapter V of Chapter 11 of the Bankruptcy Code.

2. On August 26, 2021, Brad W. Odell was appointed as Subchapter V Trustee in this bankruptcy cases [Docket #5].

3. On October 27, 2021, the Court entered its Order Converting Case to Chapter 7 [Docket # 52].

4. This Court has jurisdiction over this Application pursuant to 28 U.S.C. §§ 157 and 1334. Venue for this proceeding is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409. The statutory predicates for the relief sought by this Application are sections 105, 326, and 330(a) of the Bankruptcy Code.

B. Employment and Prior Compensation

5. The Trustee has not previously filed an application for compensation as Subchapter V Trustee in this Case.

6. The Trustee has not entered into any agreement, express or implied, with any other party for the purpose of fixing or sharing fees or other compensation to be paid for professional services rendered in this Case.

7. No promises have been received by the Trustee as to compensation in connection with this Case other than in accordance with the provisions of the Bankruptcy Code.

C. Compensation Requested

8. By this Application, the Trustee is seeking allowance of compensation for professional services rendered as Subchapter V Trustee.

9. The Trustee seeks approval on a final basis of the total fees of \$3,422.00 for services rendered as Subchapter V Trustee during the Compensation Period and \$7.05 for reimbursement of actual and necessary expenses incurred in connection with the rendition of such services, for a total award of \$3,429.05.

10. The Trustee's charges for professional services rendered in this case were billed in accordance with the Notice of Appointment of Subchapter V Trustee. The rates for Brad W. Odell, Subchapter V Trustee, are \$290.00 per hour.

11. The Trustee submits that this Application complies with Sections 330 of the Bankruptcy Code, the Bankruptcy Rules, the Bankruptcy Local Rules, and the United States Trustee Guidelines.

12. The fees sought by the Application reflect an aggregate of 11.80 hours of time spent in performing services during the Compensation Period.

D. Time Records

13. In support of the Application, attached hereto as Exhibit "A" is the Fee Application Summary, which sets forth a detailed description of services performed by the Trustee.

14. The services performed by the Trustee are detailed in the Trustee's detailed time records during the Compensation Period attached as Exhibit "B."

15. The Trustee submits that the foregoing services were necessary to fulfill his duties as Subchapter V Trustee, were necessary and beneficial to the bankruptcy estates at the time

these services were rendered, were performed without unnecessary duplication of effort or expense. The Trustee's request for compensation for the foregoing services is reflective of a reasonable amount of time expended in performing such services commensurate with the complexity, importance and nature of the problems, issues and tasks involved.

E. Standards for the Award of Compensation

16. With respect to the amount of compensation, section 330(a)(1) of the Bankruptcy Code provides, in pertinent part, that the Court may award to a trustee: "reasonable compensation for actual, necessary services rendered." 11 U.S.C. § 330(a)(1)(A).

17. In turn, Bankruptcy Code section 330(a)(3) provides that in determining the amount of reasonable compensation to be awarded, a Court shall consider the nature, the extent, and the value of the services rendered by the trustee, while taking into account all relevant factors, including the following:

- The time spent on such services;
- The rates charged for such services;
- Whether the services were necessary to the administration of, or beneficial at the time which the service was rendered toward the completion of, the chapter 11 case.
- Whether the services were performed within a reasonable amount of time commensurate with the complexity, importance, and nature of the problem, issues or task addressed;
- Whether the trustee has demonstrated skill and experience in consulting within the bankruptcy field; and
- Whether the compensation is reasonable based on the customary compensation charged by comparably skilled practitioners in cases other than chapter 11 cases.

11 U.S.C. § 330(a)(3). *See also In re Busy Beaver Bldg. Ctrs., Inc.*, 19 F.3d 833, 850 (3d Cir. 1994) (noting Bankruptcy Code's policy of providing adequate compensation and stating that

“Congress rather clearly intended to provide sufficient economic incentive to lure competent bankruptcy specialists to practice in the bankruptcy courts”) (citation and internal quotation marks omitted).

18. In interpreting these authorities to determine an award of compensation, most courts have adopted the standards enumerated in *Am. Benefit Life Ins. Co. v. Baddock (In re First Colonial Corp. of Am.)*, 544 F.2d 1291, 1298-99 (5th Cir. 1977), cert. denied, 431 U.S. 904. The Trustee respectfully submits that, as demonstrated below, the application of these factors to the services performed by the Trustee as the duly appointed Subchapter V Trustee should result in this Court’s allowance of the full compensation sought.

F. Application of the First Colonial Factors

19. The Time and Labor Required. The professional services rendered by the Trustee have required substantial time and effort.

20. The Novelty and Difficulty of Questions. Novel and complex issues have arisen in the course of this case.

21. The Skill Requisite to Perform the Firm’s Services Properly. The Trustee believes that his expertise in the areas of bankruptcy, real estate and commercial law, combined with his approach to the resolution of issues contributed to the protection of the bankruptcy estate’s interests.

22. The Preclusion of Other Employment by Applicant Due to Acceptance of the Cases. To a certain extent, the Trustee appointment precluded other new clients.

23. The Customary Fee. The compensation sought herein is based upon the Trustee’s approved hourly billing rate for services of this kind. The Trustee respectfully submits that the compensation sought herein is not unusual given the magnitude and complexity of this Case and

the time dedicated to serving as the Subchapter V trustee. Such compensation is commensurate with fees charged by other firms of comparable experience.

24. Whether the Fee is Fixed or Contingent. The Trustee charges customary hourly rates for his services based on experience and the fee is not outcome-dependent. Pursuant to Sections 330 and 331 of the Bankruptcy Code, all fees sought by professionals retained under Section 327 or 1103 of the Bankruptcy Code are contingent pending final approval by the Court and are subject to adjustment by the Court depending upon the services rendered and the results obtained.

25. Time Limitation Imposed by Client or Other Circumstances. Occasionally in this case, the Trustee has had to perform its services under significant time constraints.

26. The Amount Involved and Results Obtained. The Trustee worked with counsel for the Debtor, other creditors, and parties-in-interest to work towards the confirmation of a consensual plan; however, the Debtor moved to revoke her designation as a Subchapter V proceeding.

27. The Experience, Reputation and Ability of the Trustee. The Trustee's experience enables him to perform the services described herein competently and expeditiously. The Trustee is experienced and regarded as qualified in the business bankruptcy reorganization field.

28. The "Undesirability" of the Case. This Case was not undesirable, but as already indicated, has required a significant commitment of time from the Trustee.

29. Nature and Length of Professional Relationship. Brad W. Odell was appointed as Subchapter V Trustee on August 26, 2021.

30. Actual and Necessary Expenses. The Trustee has incurred minimal actual and necessary expenses during the course of the Compensation Period.

31. The Trustee spent one and a half hours in preparing this Application and might incur additional fees and expenses if attendance at any hearings thereon is required. The Trustee requests that these fees be paid by the Bankruptcy Estate as an administrative expense and in accordance with the Bankruptcy Code.

WHEREFORE, Brad W. Odell, as Subchapter V Trustee, respectfully requests that the Court enter an order: (a) approving this Application on a “final” basis; (b) allowing Brad W. Odell, as Subchapter V Trustee, a total sum of \$3,429.05 consisting of \$3,422.00 in fees earned and \$7.05 in expenses incurred during the Compensation Period; (c) ordering the Chapter 7 Trustee to pay to the Trustee the \$3,429.05 in allowed fees and expenses in accordance with the Bankruptcy Code; and (d) allowing such other and further relief to which he is justly entitled.

Dated: January 13, 2022

Respectfully Submitted,

By: /s/ Brad W. Odell
Brad W. Odell, SBN: 24065839

MULLIN HOARD & BROWN, LLP
Brad W. Odell, SBN: 24065839
P. O. Box 2585
Lubbock, Texas 79408-2585
Tel: (806) 765-7491
Fax: (806) 765-0553
Email: bodell@mhba.com
Subchapter V Trustee

CERTIFICATE OF SERVICE

I hereby certify that on the 13th day of January, 2022, a true and correct copy of the foregoing document was filed with the Court and served by first class mail, postage prepaid and properly addressed to all parties listed on the attached Mailing Matrix and/or electronically upon those parties registered to receive electronic notice via the Court's CM/ECF system.

By: /s/ Brad W. Odell
Brad W. Odell

Label Matrix for local noticing
0542-3
Case 21-30633-hcm
Western District of Texas
El Paso
Thu Jan 13 14:38:05 CST 2022

U.S. BANKRUPTCY COURT
511 E. San Antonio Ave., Rm. 444
EL PASO, TX 79901-2417

City of El Paso
c/o Don Stecker
112 E. Pecan St. Suite 2200
San Antonio, TX 78205-1588

Manny Jemente
Acala Investments
6044 Gateway Blvd East
El Paso TX 79905-2023

Techrover, Inc.
71 Camille
El Paso, TX 79912-4539

Wells Fargo Business
PO Box 6995
Portland OR 97228-6995

Weststar Title, LLC
c/o James W. Brewer
221 N. Kansas, Ste 1700
El Paso, TX 79901-1401

United States Trustee (SMG37)
U.S. Trustee's Office
615 E. Houston, Suite 533
P.O. Box 1539
San Antonio, TX 78295-1539

Albert Flores
c/o E.P. Bud Kirk
600 Sunland Park Dr., Ste. 4-400
El Paso, TX 79912-5134

Fidelity National Title Insurance Co
c/o Shakira Kelley
6900 Dallas Parkway, Ste 610
Plano, TX 75024-7164

Montoya Park Place, Inc.
810 N. Kansas
El Paso, TX 79902-5207

Ulrick Moise
Palacio de Paquim,
C. Durango 2047
32575 Cd Juarez,
Chih. Mexico

WestStar Title, LLC
c/o Kemp Smith LLP
Attn: James W. Brewer
221 N. Kansas, Ste. 1700
El Paso, Texas 79901-1401

Brad W. Odell
Mullin Hoard & Brown, LLP
1500 Broadway, Suite 700
Lubbock, TX 79401-3169

Westmount Group, Inc.
810 N. Kansas Street
El Paso, TX 79902-5207

Albert Flores
c/o E.P. Bud Kirk
600 Sunland Park Drive
Bldg 4, Suite 400
El Paso, TX 79912-5115

Keyvan Parsa
7604 Plaza Redonda
El Paso TX 79912-8402

Shabnam Izadpanahi
36 Micmac Crescent
North York, ON M2H2K2

United States Trustee - EP12
U.S. Trustee's Office
615 E. Houston, Suite 533
P.O. Box 1539
San Antonio, TX 78295-1539

Westmount Assets, Inc.
810 N. Kansas St.
El Paso, TX 79902-5207

The following recipients may be/have been bypassed for notice due to an undeliverable (u) or duplicate (d) address.

(u)Fidelity National Title Insurance Company

End of Label Matrix
Mailable recipients 19
Bypassed recipients 1
Total 20

EXHIBIT “A”
IN THE UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

IN RE: §
§
WESTMOUNT GROUP, INC., § **Case No. 21-30633-HCM**
§
Debtor. §

FEE APPLICATION SUMMARY

- I. CLIENT: Bankruptcy Estate of WESTMOUNT GROUP, INC.
- II. REQUESTING APPLICANT/FIRM: Brad W. Odell, Subchapter V Trustee
- III. TOTAL AMOUNT OF FEES REQUESTED:
- a. Fees: \$3,422.00
 - b. Expenses: \$7.05
 - c. Retainer: None
 - d. Time Period Covered: August 23, 2021 through October 27, 2021
- IV. BREAKOUT OF CURRENT APPLICATION

Attorney/Paralegal	Hours Spent	Hourly Rate	Total
Brad W. Odell	11.80	\$290.00	\$ 3,422.00
TOTAL:	11.80		\$ 3,422.00

MINIMUM FEE INCREMENTS: The Trustee bills time in tenth of hours.

EXPENSES: The Trustee is requesting \$7.05 in expenses. The Trustee charges \$.20 per page for photocopying; and all other expenses are based on actual charges (no premium) for expenses incurred, including long distance telephone calls, postage, reimbursement of travel expenses and charges for services by third parties. Below is a summary of the expenses charged:

Postage	\$.53
Copy Charges	\$ 2.20
PACER	\$ 0.00
Long Distance Calls	\$ 4.32
TOTAL:	\$ 7.05

AMOUNT ALLOCATED FOR PREPARATION OF THIS FEE APPLICATION: The Trustee has billed one and a half hours for the preparation of this fee application as of the time of filing. Additional expenses incurred for the serving of this fee application and any preparation and attendance at a hearing on this fee application will be included in invoices at a later time.

V. PRIOR APPLICATIONS: None.

VI. OTHER CO-EQUAL OR ADMINISTRATIVE CLAIMANTS IN THIS CASE:

- a. Counsel for the Debtor; and
- b. Chapter 7 Trustee and professionals.

It is believed that allowance of the Trustee's Fee Application will not result in the Debtor's estate not being able to pay all co-equal administrative claims in this case.

VII. RESULTS OBTAINED:

1. **Case Administration:** This included but is not limited to administrative work associated with being appointed Trustee; review of filings of the Debtor including, pleadings, schedules, statement of financial affairs, orders, and disclosures; preparation for and attendance at Initial Debtor Interview, hearings, and creditors' meetings; preparation of responses filed by Trustee; and preparation of fee application.
(BWO: 10.20 hours @ \$290.00/hour = TOTAL: \$2,958.00)
2. **Work related to Creditors' Claims:** This included but is not limited to work associated with reviewing claims of creditors and discussions with creditors and debtor regarding case.
(BWO: 1.10 hours @ \$290.00/hour = TOTAL: \$319.00)
3. **Work Related to Chapter 11 Plan:** This included but is not limited to work associated with review and analyzing status report and attendance at Status Conference.
(BWO: .50 hours @ \$290.00/hour = TOTAL: \$145.00)



**P. O. BOX 31656
AMARILLO, TX 79120-1656
806-372-5050**

TAX ID #75-2319090

*****INVOICE*****

Brad W. Odell, Subchapter V Trustee
1500 Broadway, Suite 700
Lubbock, TX 79401

Page: 1
Invoice Date: September 9, 2021
Account No.: 18167.30
Invoice No.: 1

Westmount Group, Inc. (Ch. 11 Bankruptcy)

FEES

		HOURS	
08/26/2021			
BO	Attention to appointment as Sub V Trustee and scheduling of IDI.	0.30	
	FOR CURRENT SERVICES RENDERED	0.30	87.00

	<u>RECAPITULATION</u>	<u>HOURS</u>	<u>HOURLY RATE</u>	<u>TOTAL</u>
<u>TIMEKEEPER</u>				
Brad Odell		0.30	\$290.00	\$87.00

TOTAL CURRENT WORK 87.00

BALANCE DUE UPON RECEIPT \$87.00

**INVOICE DUE UPON RECEIPT
PLEASE INDICATE ACCOUNT NUMBER ON REMITTANCE
PAYMENTS RECEIVED AFTER DATE OF THIS STATEMENT ARE NOT REFLECTED ON THIS INVOICE**



**P. O. BOX 31656
AMARILLO, TX 79120-1656
806-372-5050**

TAX ID #75-2319090

*****INVOICE*****

Brad W. Odell, Subchapter V Trustee
1500 Broadway, Suite 700
Lubbock, TX 79401

Page: 1
Invoice Date: October 7, 2021
Account No.: 18167.30
Invoice No.: 2

Westmount Group, Inc. (Ch. 11 Bankruptcy)

FEES

		HOURS	
09/30/2021			
BO	Prepared for and attended creditors' meeting;	2.60	
	FOR CURRENT SERVICES RENDERED	2.60	754.00

<u>TIMEKEEPER</u>	<u>RECAPITULATION</u>	<u>HOURS</u>	<u>HOURLY RATE</u>	<u>TOTAL</u>
Brad Odell		2.60	\$290.00	\$754.00

TOTAL CURRENT WORK	754.00
PREVIOUS BALANCE	\$87.00
BALANCE DUE UPON RECEIPT	<u>\$841.00</u>

INVOICE DUE UPON RECEIPT
PLEASE INDICATE ACCOUNT NUMBER ON REMITTANCE
PAYMENTS RECEIVED AFTER DATE OF THIS STATEMENT ARE NOT REFLECTED ON THIS INVOICE



**P. O. BOX 31656
AMARILLO, TX 79120-1656
806-372-5050**

TAX ID #75-2319090

*****INVOICE*****

Brad W. Odell, Subchapter V Trustee
1500 Broadway, Suite 700
Lubbock, TX 79401

Page: 1
Invoice Date: November 10, 2021
Account No.: 18167.30
Invoice No.: 3

Westmount Group, Inc. (Ch. 11 Bankruptcy)

FEES

		HOURS	
10/05/2021			
BO	Analyzed application to employ and objection to same.	0.30	
BO	Communications with counsel for state court litigates regarding claims and bankruptcy case of Westmount.	0.20	
BO	Communicaitons with Debtor's counsel regarding state court litigation and transfers of loan proceeds.	0.60	
10/19/2021			
BO	Call with J. Brewer and B. Kirk.	0.30	
10/20/2021			
BO	Attended status conference.	0.50	
10/25/2021			
BO	Drafted Trustee's Response to Motion to Dismiss.	1.00	
10/26/2021			
BO	Prepared for and attended hearing on Motion to Dismiss.	4.50	
	FOR CURRENT SERVICES RENDERED	7.40	2,146.00

RECAPITULATION

<u>TIMEKEEPER</u>	<u>HOURS</u>	<u>HOURLY RATE</u>	<u>TOTAL</u>
Brad Odell	7.40	\$290.00	\$2,146.00

EXPENSES

10/05/2021	Long distance telephone call, from ext 101, 1(512)653-1009	1.52
10/25/2021	Postage	0.53
10/27/2021	Long distance telephone call, from ext 101, 1(915)224-0104	0.16
10/28/2021	Long distance telephone call, from ext 101, 1(210)392-5997	1.28
10/28/2021	Long distance telephone call, from ext 101, 1(915)224-0104	1.04

INVOICE DUE UPON RECEIPT

PLEASE INDICATE ACCOUNT NUMBER ON REMITTANCE

PAYMENTS RECEIVED AFTER DATE OF THIS STATEMENT ARE NOT REFLECTED ON THIS INVOICE

Brad W. Odell, Subchapter V Tru
Westmount Group, Inc. (Ch. 11 B

Page: 2
Invoice Date: November 10, 2021
Account No.: 18167.30
Invoice No.: 3

10/28/2021	Long distance telephone call, from ext 101, 1(512)649-3243	0.16
10/28/2021	Long distance telephone call, from ext 101, 1(210)392-5997	0.16
10/29/2021	Photocopying, 11, 11 pp @ \$0.20 each	<u>2.20</u>
	TOTAL EXPENSES	7.05
	TOTAL CURRENT WORK	2,153.05
	PREVIOUS BALANCE	\$841.00
	BALANCE DUE UPON RECEIPT	<u>\$2,994.05</u>